

REMARKS

Claims 2, 5, 6, 10, 14, 17, 18, and 21-28 are pending in the application. The Examiner alleged that the application contained “claims directed to the following patentably distinct species of invention.” The Office Action states that:

The species are independent or distinct as follows:

Species I: Claims 10, 14, and 24-26, drawn to determining at least one geographic area served by each of a plurality of receiver units for distributing national content to the plurality of receiver units and to generate local content, wherein the central system instructs the receiver units to generate local content that includes a unique ID associated with the receiver unit providing the local content; and each of a subset of the end viewers served by the receiver units communicate the unique ID that was displayed and the geographic area where the unique ID was displayed to the central system and the central system determines at least one geographical areas served by each of the receiver units by associating the unique ID for each receiver unit with the geographic areas identified in the communications from the subset of the end viewers having the same unique ID.

Species II: Claims 21, 2, 5, 6, 22, and 23, drawn to determining at least one geographic area served by each of a plurality of receiver units wherein displaying the unique ID that identifies the receiver unit to a plurality of end viewers served by the receiver unit so that the ID is displayed on a television to each of the end viewers; each end viewer communicate information including the ID displayed to the end viewer and the geographic area where the ID was displayed to a central system; and identifying at least one geographic area served by the receiver unit having the particular ID.

Species III: Claims 27, 17, 18, and 28 drawn to determining at least one end user characteristic associated with a plurality of end users served by a distribution device wherein each end user within a subset of the end users to communicate information including the unique ID that was communicated to the end user and at least one end user characteristic which characterizes the end user to a central system.

The requirement is traversed since it is an improper election of species requirement. It specifies claims rather than embodiments. "Claims themselves are never species." MPEP 806.04(e).

Even if the Examiner is alleging a restriction requirement between the different groups of claims identified in the Office Action, the requirement is traversed. There are three independent claims. Claim 10 is a system claim and Claims 21 and 27 are method claims. The claims differ in scope and in the elements recited. However, it is submitted that there is no undue burden on the Examiner to examine all of the claims concurrently. The present election/restriction requirement was made after the Examiner already has substantively examined the application and after an interview has been conducted to discuss the application.

Since a response to the Office Action requires a provisional election, Species I is provisionally elected.

If there are any issues that can be resolved via a telephone conference, the Examiner is invited to contact the undersigned at 404.685.6799.

Respectfully submitted,

/Brenda O. Holmes/

Brenda O. Holmes
Reg. No. 40,339

Kilpatrick Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309
(404) 815-6500